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# Unsolved Mysteries of the Rural Health Care Program

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Grow2Gig+ Webinar #18  
Unsolved RHC Mysteries

# SPEAKERS

- *Moderator:* **Jeff Mitchell**, Of Counsel, Lukas, LaFuria, Gutierrez & Sachs, LLP
- **Karen Brinkmann**, Managing Member, Karen Brinkmann, PLLC
- **Dan Holdhusen**, Director of Government Relations, The Evangelical Lutheran Good Samaritan Society
- **Tracy Olson**, Program Manager, NC Telehealth Network

# Rural Rate – RHC Telecom Program

- Telecommunications Act of 1996 established:
  - Qualifying healthcare providers (HCPs) are entitled to the telecom services necessary to provide healthcare services in rural areas, paying rates comparable to the rates for similar services in urban areas of the state
- RHC Telecom Program
  - Telecom providers serving the needs of HCPs in rural areas may recover the **urban-rural rate difference** from USAC
- HCPs select providers through competitive bidding process, Jan – June leading up to next funding year (begins July 1)
  - While services are provided, HCP waits for USAC funding commitment

# Rural Rate Rule

- FCC’s “rural rate rule” defines rural rate in 1 of 3 ways:
  - a) Average of rates actually being charged to **commercial** (non-HCP) customers for **identical or similar services** in the same rural area
    - Typically, there are no such customers
  - b) Average of the **tariffed or other publicly available rates** charged by other carriers for the same or similar services in the same rural area
    - Typically, there are no such rates
  - c) In absence of options a) and b), a carrier may submit a “**cost-based rate**” to the FCC for approval, including justification with an “itemization of costs”
    - This method was first employed in 2018

# Rural Rate Rule

- FCC subjected several carriers to **“heightened scrutiny”** of their FY 2017 rural rates
  - Began lengthy process in early 2018 that recently concluded
  - Has not resulted in any public decisions that shed light on justifying rural rates based on costs

# Open Questions

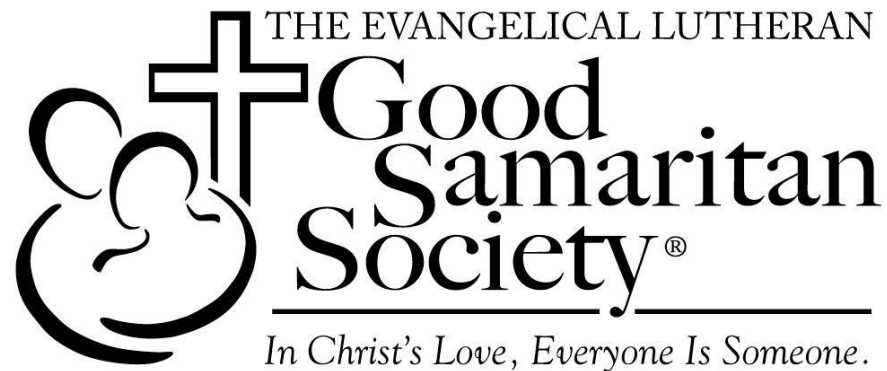
- Can an appropriate methodology be devised for cost-justification of rates for services that typically never were tariffed or cost-justified in the past?
- What basis has the FCC to demand after-the-fact cost justification, and to order substantial rate reductions after contracts have been implemented and the services have been provided?
- What effect has this *post hoc* rate engineering on the competitive bidding process?
- **Has this system discouraged rural HCPs from participating in the program?**

# Dan Holdhusen

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# Good Samaritan Society – Skilled Nursing Facilities (SNF)

- New to RHC in FY2017
- ~ 185 SNF campuses, 24 states
- First application (consortia) in FY2017
- Undergoing merger with Sanford Health (Acute care)
- “Uncovering the mysteries” as newcomer
- Importance of advocacy

# De-mystifying the HCF Program

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# De-mystifying the HCF Program

- Solving mysteries today in the Healthcare Connect Fund (HCF) program.
- Program improvements:
  - NPRM reply comments requested greater transparency of program data and program guidance.
  - USAC liability risk, relationship to the FCC, admin expenses.
  - Building relationships to work together effectively.
  - SHLB's role.




# USAC HCF Process Documentation

- USAC best practice webinars and online help is very basic.
- Getting answers requires trial and error and time-consuming research, which can cause funding delays.
- USAC's internal HCF documentation
  - This detailed process documentation is private to USAC.
  - New FCC staff interpret the rules differently, causing process changes even if the program rules don't change.




# The case of the missing hospital license

• **The mystery:** How do we confirm a non-profit hospital's eligibility when they share a hospital license?

- **RHC-Assist:** We can't predetermine eligibility. Submit a form 460. 
- **Form 460:** Every nonprofit hospital must have its own license.

• **The answer:**

- DHHS certificate of need transfers licensed hospital beds. 
- Photographs or Google Earth images
- Medicare 995 form
- Hospital awards and Leapfrog hospital ratings



# The case of the disappearing grandfather clause

- **The mystery:** Why would a health clinic that was grandfathered as rural as a RHCPP participant lose this status after receiving HCF funding for 6 years?
- **Form 460 revision:** Ineligible. You are welcome to appeal this decision. ❌
- **The answer:** Register as a community mental health center. ✅



# Unsolved Mysteries

- Rural healthcare provider broadband needs & budgets
  - Funding approval timelines
  - Discount reductions
    - Raise the cap by more than inflation to reflect growing healthcare needs
    - Raise the sub-cap for upfront and multi-year commitments
    - Prioritize consortia applications
- RHC NPRM next steps and timing



# Thank You!



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